

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EUTIMIA L. SANCHEZ,
Plaintiff,

vs.

CIV. NO. 1:17-cv-01094-RB-KRS

NANCY A. BERRYHILL,
Acting Commissioner of the
Social Security
Administration,
Defendant.

ORDER

Plaintiff's Stipulated Motion for Attorney Fees Pursuant to Equal Access to Justice Act (Doc. 25), filed on February 7, 2019, is GRANTED.

Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), Plaintiff's attorney requested to be awarded attorney fees in connection with the above captioned claim. The parties have reached an agreement of twenty-five hours at the rate of \$201.00 per hour for total award of \$5,025.00. Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. See 28 U.S.C. § 2412(c)(1) (2006).

In accordance with the United States Supreme Court and Tenth Circuit Court of Appeals, the parties agree that the award of attorney fees must be made payable to Plaintiff as the prevailing party. See *Astrue v. Ratliff*, 560 U.S. 586, 595-98 (2010); *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007), *cert. denied*, 129 S. Ct. 486 (2008); *Brown v. Astrue*,

271 F. App'x 741, 743-44 (10th Cir. 2008) (unpublished). In addition, if Plaintiff's counsel ultimately receives an award of attorney fees pursuant to 42 U.S.C. §406(b), she must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



KEVIN R. SWEAZEA
United States Magistrate Judge